

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JESSE D. GIDDINGS,**  
**Plaintiff**

**v.**

**L.T. ROGERS, et al.,**  
**Defendants**

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**No. 1:22-cv-00097**

**(Judge Kane)**

**ORDER**

**AND NOW**, on this 6th day of March 2023, upon consideration of Defendants' motions to dismiss Plaintiff's complaint (Doc. Nos. 20, 21), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. The motion to dismiss (Doc. No. 20) filed by Defendant Shawn P. McGlaughlin s/h/a Doctor McGlauklyn ("Defendant McGlaughlin") is **GRANTED**, and Plaintiff's Fourteenth Amendment inadequate medical care claim against Defendant McGlaughlin is **DISMISSED**;
2. The motion to dismiss (Doc. No. 21) filed by Defendants Josh Rogers ("Rogers"), Sheila Lain ("Lain"), and Kim Poorman ("Poorman") s/h/a L.T. Rogers, Nurse Sheila, and Nurse Kim is **GRANTED** in part and **DENIED** in part as follows:
  - a. The motion is **GRANTED** as to Defendants Poorman and Lain, and Plaintiff's Fourteenth Amendment inadequate medical care claims against Defendants Poorman and Lain are **DISMISSED**;
  - b. The motion is **DENIED** as to Defendant Rogers. Plaintiff is permitted to proceed on his Fourteenth Amendment excessive use of force claim against Defendant Rogers;
3. Plaintiff is **GRANTED** leave to file an amended complaint against Defendants;
4. Plaintiff shall file his amended complaint within **thirty (30) days** of the date of this Order. Importantly, should Plaintiff elect to file an amended complaint, he must re-plead every cause of action in the amended complaint that the Court has found to be adequately pled in the original complaint because the amended complaint will supersede the original complaint. See Palakovic v. Wetzel, 854 F.3d 209, 220 (3d Cir. 2017) (stating that "an amended pleading . . . supersedes the earlier pleading and renders the original pleading a nullity"). Accordingly, Plaintiff's amended complaint must set forth his Fourteenth Amendment excessive use of force claim against Defendant Rogers and his Fourteenth

Amendment inadequate medical care claims against Defendants McGlaughlin, Poorman, and Lain;

5. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form “Amended Complaint” and shall include the docket number for this case, 1:22-cv-00097; and
6. In the event that Plaintiff fails to file an amended complaint within the thirty (30) days, then this action will proceed on the original complaint as to Plaintiff’s Fourteenth Amendment excessive use of force claim against Defendant Rogers.

s/ Yvette Kane  
Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania